

OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

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NOTICE OF ADOPTION

Amendment of Local Rules and Forms:

1005-1, 1006-1, 1007-1, 2016-2, 2083-1, 3015-2, 4008-1,
5005-2, 5007-1, 5011-1, 5072-1, 9010-2, Appendix IV, R.I. Bankr. Forms O, R, U and V

Pursuant to 28 U.S.C. §2071, Fed.R.Civ.P. 83, Fed.R.Bankr.P. 9029, and the November 11, 1990 Order of the U.S. District Court Authorizing Promulgation of Local Bankruptcy Rules, the U.S. Bankruptcy Court for the District of Rhode Island hereby provides notice that the Local Rules and Forms are amended as provided below. These amendments shall take effect immediately, and shall apply to all cases filed on or after this date, and all cases pending in this court as of this date.

March 14, 2000

FOR THE COURT

Susan M. Thurston, Clerk

RULE 1005-1

FILING PAPERS - REQUIREMENTS

- (a) **Caption of Papers.** The bankruptcy case name, number, and chapter shall appear on all papers filed with the Clerk and must also appear on the signature page of all documents filed with the court.
- (b) **Size and Form.** All papers, including the bankruptcy petition, schedules, statements, lists and other papers shall be on 8 ½" x 11" paper. All papers other than the bankruptcy petition and related schedules and lists shall not contain typeset less than 11 point, with the exception of footnotes which shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument. All such papers shall be double spaced, with the exception of quotations and footnotes.
- (c) **Required Signatures and Identifying Information.** Each original paper filed with the Clerk shall include the filer's name, original signatures, address, telephone number, facsimile number, and if an attorney, the law firm's name, the attorney's state bar identification number, and the name of the client.
- (d) **Required Response Time Language Must Be Included on All Papers.**
 - (1) **Usual Papers.** In order to provide adequate notice to interested parties of the time to respond, every motion (except motions for relief from stay and those set forth in paragraph (2) below), application, petition (not including bankruptcy petition), objection to claim or objection to exemption filed with the clerk's office shall contain language substantially similar to the following, in single or double space and must appear in at least 11 point type:

Within ten (10) days after service as evidenced by the certification (twenty (20) days for U.S. Government officers and agencies thereof), and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought

herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

- (2) **Excepted Papers with Different Response Times.** A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:
- (A) Application to Compromise -- 20 days;
 - (B) Motion/Notice of Intended Sale -- 20 days;
 - (C) Motion to Amend or Modify a Plan -- 20 days;
 - (D) Application (or Notice) to Abandon -- 15 days;
 - (E) Motion to Shorten Time (Expedited treatment) -- 5 business days;
 - (F) Emergency Motion for Relief -- left to discretion of Court, above language should *not* be used;
 - (G) Motion for Rule 2004 Examination -- *see* R.I. LBR 2004-1(c)(2).
- (3) **Objection to Claim.** *See* R.I. LBR 3007-1.
- (4) **Objection to Exemption.** *See* R.I. LBR 4003-1(b).

(5) Relief from Stay Excluded. The above language should not be used for motions for relief from stay, which are governed by the time periods contained in the Summons and Notice of Trial.

- (e) Filings Made on Day of Court.** An intended filing related to a matter on for hearing that day, shall be filed in open court and not with the clerk's office.
- (f) Caption of Amendments.** Any paper filed to effect an amendment of a previously-filed or served paper, including bankruptcy petition, lists, schedules, and statements, shall clearly state in bold print that it is an amendment. Any amendment adding creditors to the case shall be accompanied with the appropriate filing fee, and a supplemental matrix or diskette containing *only* the names and addresses of the added creditors. *See also*, R.I. LBR 1009-1.

RULE 1006-1 FILING FEE

- (a) Manner of Payment.** The filing fee commencing a case shall be paid in cash or by cashier's check or money order, made payable to "Clerk, U.S. Bankruptcy Court." Payment by personal check or credit card will be accepted only if the check or credit card is in the name of the attorney for the debtor, or the law firm of which the attorney for the debtor is a member, partner or associate. A \$25.00 fee shall be assessed and shall be payable to the "Clerk, U.S. Bankruptcy Court" for any dishonored check. The Clerk of the court shall maintain a list of attorneys and law firms whose checks have been dishonored, may refuse to accept the checks of such attorneys or firms, and, if circumstances warrant, may report the attorney(s) or firm(s) to the appropriate authorities.
- (b) Multiple/Erroneous Payments of Same Fee or Charge.** It is the filer's responsibility to ensure any clerk's office fee or charge is paid only once, and creditors are responsible for ascertaining that the status of the case is such that the action they seek requires a fee. Except where the payment of a fee is the error of the clerk's office, the clerk is not authorized to refund fees paid by mistake. The clerk shall deposit excess or erroneous payments into the appropriate government account.
- (c) Payment of Filing Fee in Installments.** The clerk may approve a debtor's application to pay the filing fee in installments, if the application contains a payment schedule that provides for at least 25% of the fee at

the time of the filing, or within five (5) business days thereafter, and continued payments of 25% commencing within thirty (30) days of the petition date and every twenty-five (25) days thereafter. The application to pay in installments must comply with Official Form 3.

- (d) **Nonconforming Application to Pay in Installments.** An application to pay the filing fee in installments that does not comply with LBR 1006-1(c) shall be presented to the Court for consideration. If denied, the debtor shall have five (5) business days from the date of the order to either resubmit the application in compliance with LBR 1006-1(c) or remit the full filing fee. Failure to timely do either will result in the automatic issuance of an Order to Show Cause why the case should not be dismissed.

RULE 1007-1

**LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS;
NOTICE OF INTENT TO DISMISS; NOTICE IN CHAPTER 11**

- (a) **Certification of Pro Se Debtor Required.** All pro se debtors are required to complete at the time of filing of the petition, or within fifteen (15) days thereof, a certification listing the names, addresses and amounts paid to persons who assisted with the bankruptcy filing. If however, the pro se debtor files an application to pay the filing fee in installments, then the certification is due at the time of filing.

(b) Notice of Intent to Dismiss for Lack of Prosecution.

- (1) **Procedure for Issuance of Notice of Intent.** In all voluntary cases filed in this District where the petition is not accompanied by the required schedules, statements, declarations and/or plan, pursuant to Fed. R. Bankr. P. 1007(c), 1008, 2016, and 3015(b), the debtor shall have fifteen (15) days from the commencement of the case to file all missing schedules, statements, unsworn declarations or plans or, if cause exists, to move within that time for an order extending the time to make the required filings. If the required papers or signatures are not filed within the fifteen (15) day deadline, or any court authorized extension thereof, a Notice of Intent to Dismiss the Case shall immediately issue, with a five business day response time, to the debtor and counsel, with copies mailed to the case trustee, if there is one, and to the local

office of the United States trustee. In the absence of a showing to the contrary, any such dismissal shall be presumed to be a willful failure within the meaning of 11 U.S.C. § 109(g), with a 180-day bar to refiling a petition. See also, R.I. LBR 1017-2.

- (2) **Type of Filings Included:** The following types of filings, as applicable to the case and chapter, will be subject to the procedures set forth in subparagraph (b)(1) above and R.I. LBR 1017-2:

- (A) Schedules A through J;
- (B) Statement of affairs;
- (C) Summary of schedules;
- (D) Statement of executory contracts;
- (E) Attorney fee disclosure statement;
- (F) all required declarations having been properly executed;
- (G) the chapter 13 plan; and/or
- (H) Certificate of service re: notice of chapter 13 filing;
- (I) Chapter 11 Exhibit A;
- (J) Chapter 11 twenty (20) largest unsecured creditors.

- (3) **Order to Pay Mailing Costs.** See R.I. LBR 1017-2(c).

- (c) **Notification of Creditors in Chapter 11 Cases Scheduled as Disputed, Contingent or Unliquidated.** The debtor in each chapter 11 case shall serve R.I. Bankr. Form B on each creditor whose claim is listed on the schedules as disputed, contingent or unliquidated within fifteen (15) days after filing the schedules of liabilities, or within fifteen (15) days of adding such creditors to previously filed schedules. The notification must advise such creditors of their right to file proofs of claim and that their

failure to do so shall prevent them from voting upon the plan or participating in any distribution thereunder. Within ten days of service, a certificate of service evidencing compliance with this LBR shall be filed with the Clerk.

RULE 2016-2 **DUTY TO UPDATE 2016(b) STATEMENT**

- (a) **Continuing Duty to Update.** Counsel for the debtor has a continuing duty to timely update the Rule 2016(b) statement, as prescribed by Fed.R.Bankr.P. 2016(b), if additional fees are incurred after the initial filing of the statement.
- (b) **Sanctions for Noncompliance.** Failure to comply with this rule may result in the sua sponte entry of an order for the disgorgement and/or denial of all fees.

RULE 2083-1 **CHAPTER 13 - GENERAL**

Duty to File Chapter 13 Agreement. Contemporaneous with the filing of a Chapter 13 case, or within 15 days thereafter, the debtor and counsel shall complete and file R.I. Bankruptcy Form V with the Court. Failure to timely file Local Form V will result in the automatic issuance of an Order to Show Cause against the debtor and counsel for the dismissal of the case, disgorgement of all fees, and/or other sanctions as deemed appropriate.

RULE 3015-2 **CHAPTER 13 - MODIFICATION OF SECURED CLAIM**

Separate Motion Required. A debtor who, as part of a Chapter 13 plan, proposes to modify a secured claim pursuant to 11 U.S.C. §506 shall file a separate motion to that effect. The motion shall be served on the claimant with a copy of the proposed Plan, shall contain the language required by LBR 1005-1(d) and shall contain, inter alia:

- (A) the name and address of the claimant;
- (B) an identification of the security held by the claimant; and
- (C) a description of the manner in which the secured claim is proposed to be treated under the plan.

RULE 4008-1 **REAFFIRMATION**

- (a) **General Requirements.** Subject to the Court's discretion to require additional detail, reaffirmation agreements secured by personal property

must include specific information as to: a description of the collateral, including, where appropriate, the make, year, model and any other pertinent information; the balance currently owed to the creditor; the current market value of the collateral; the interest rate; the rate of payment (amount to be paid monthly/weekly); and the present and anticipated user(s) of the collateral and whether the property is insured.

- (b) **Review Procedures.** The Court independently reviews all reaffirmation agreements not involving real property. Where the debtor is represented by counsel who has signed an affidavit that the agreement will not impose an undue hardship on the debtor and his/her dependents, and it appears based upon the income and expense schedules (I and J) that the debtor is not financially capable of honoring the proposed reaffirmation agreement, the Court will issue an order against debtor and debtor's counsel to show cause why the affidavit should not be stricken.
- (c) **Defective Reaffirmation Agreements.** If a reaffirmation agreement is filed with the Court that is not in compliance with § 524(d), Fed. R. Bankr. P. 4008, or these LBRs, the agreement is deemed invalid and unenforceable.
- (d) **Mandatory Reaffirmation Agreement Form.** All reaffirmation agreements filed with the court must use Reaffirmation Agreement Form B240. See, R.I. Bankr. Form U.

RULE 5005-2 **FILING OF PAPERS - CORPORATE DISCLOSURE STATEMENT**

Statement Required. In this court, any corporate (non-governmental) party to an action shall file a statement identifying all of its parent corporations and listing any publicly held company that owns 10% or more of said party's stock. A party shall file the statement with its initial pleading filed in the court and shall supplement the statement within a reasonable time of any change in the information.

RULE 5007-1 **INTERPRETERS; SERVICES FOR PERSONS WITH COMMUNICATIONS DISABILITIES**

- (a) **Right to an Interpreter.** The Court will provide interpreter services only in proceedings initiated by the United States or for persons with communications disabilities.
- (b) **Certification.** There is no requirement that an interpreter provided by a party be

federally certified.

(c) **Notice Required for Interpreter Services.** A party who requires the services of an interpreter shall make arrangements therefor, at that party's expense, and shall file a written notice not later than eleven (11) days prior to the proceeding in which the interpreter's services will be used. The notice shall include:

- (1) the name and credentials of the interpreter;
- (2) the name of the witness or witnesses requiring such services; and
- (3) the reason the service is needed.

(d) **Who may not serve as Interpreter.** Relatives or acquaintances of a witness are not eligible to serve as interpreter.

RULE 5011-1 **WITHDRAWAL OF REFERENCE**

- (a) **Filing of a Motion to Withdraw the Reference.** A motion for withdrawal of the reference shall be filed with the Clerk of the Bankruptcy Court and shall indicate that the filer is seeking relief from the United States District Court and must also contain the required response time language specified in LBR 1005-1(d)(1). Such motion shall be accompanied by a properly completed United States District Court cover sheet, the prescribed filing fee, and a certificate of service.
- (b) **Transmittal to the U.S. District Court.** Upon expiration of the objection period, the Clerk shall transmit the motion and any responses or objections thereto to the U.S. District Court. Counsel are responsible for advising the Bankruptcy Clerk of any additional documents for transmittal with the motion to withdraw, and are required to make all necessary copies. After transmittal of the record to the District Court, any further pleadings pertaining to the Withdrawal of Reference must be filed with the U.S. District Court.

RULE 5072-1 **COURTROOM DECORUM**

- (a) **Announcement of Representation.** Upon the call of the case, counsel or if appropriate, a pro se litigant, shall announce his/her name for the record and the name of the party or parties he/she represents.

- (b) **One Counsel per Party.** Unless leave of Court is obtained in advance, only one counsel for each separate interest shall conduct the examination of any one witness, present argument, or make objections with respect to the testimony of that witness.
- (c) **Offer and Marking Exhibits.** Before referring to, using, or offering into evidence any exhibit, counsel shall first have the proposed exhibit marked for identification with a copy to opposing counsel.
- (d) **Courtroom Security.** Security personnel, including the United States Marshal, a Deputy Marshal, or a deputized court security officer, shall inspect all objects carried by persons entering the premises. No one shall enter or remain on the premises without submitting to such an inspection. Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses such a search shall be denied entry.
- (e) **Cell Phones, Laptop Computers and Bags.** ~~Any electronic equipment, including cell phones, is prohibited from being brought into the courtroom.~~ Cell phones and laptop computers are permitted in the courtroom. Laptop computers will be allowed in the courtroom only upon prior request and approval of the Court.
- (f) **Courtroom Attire.** All persons appearing before the Court or attending Court are expected to dress in appropriate attire. The Court reserves the right to dismiss individuals from the courtroom if they are dressed inappropriately.

RULE 9010-1 **ATTORNEYS - ADMISSION TO PRACTICE, REPRESENTATION AND APPEARANCES**

- (a) **Admission to Practice.** An attorney who is admitted to practice in the United States District Court for the District of Rhode Island shall be deemed admitted to practice in this Court.
- (b) **Admission Pro Hac Vice.** A member in good standing of the bar of any state and the bar of any other U.S. District Court may, upon motion, be permitted to argue or try a particular cause in whole or in part as counsel. Local Rule 5(c) of the Local Rules for the U.S. District Court, District of Rhode Island (as amended on January 21, 1997 and as may be further amended from time to time), see Appendix VI, and subdivisions (c) and (d)(1) below shall govern procedures for admission Pro Hac Vice in this Court.

- (c) **Local Counsel Not Required In Uncontested Matters.** With the exception of representation as counsel to a debtor or trustee, an attorney may appear pro hac vice without a local attorney if the matter is uncontested. If, however, the matter is or becomes contested, then local counsel must enter an appearance at least five days before the scheduled hearing. An attorney who appears before the Court pursuant to this LBR agrees to observe and to be bound by the local rules and orders of this Court and the Rhode Island Rules of Professional Conduct.

(d) Representation:

- (1) **Motion for Admission Pro Hac Vice.** An attorney who is not a member of the Bar of the United States District Court for the District of Rhode Island, but who is a member in good standing in every jurisdiction where the attorney has been admitted to practice and is not subject to pending disciplinary proceedings as a member of the Bar in any jurisdiction, and subject to the limitations above, may appear in this Court by leave of Court. The attorney shall file a Motion for Admission Pro Hac Vice to appear before this Court, substantially similar to R.I. Bankr. Form T, which Motion shall set forth the attorney's compliance with this LBR and Local Rule 5(c) of the U.S. District Court.
- (2) **Counsel Required/Pro Se Appearance.** No person, other than an individual representing himself/herself, shall appear or practice before this Court except through representation of counsel.
- (3) **Filing Proofs of Claim/No Representation Required.** A corporation, partnership or trust, by or through an officer, agent, or person authorized by a power of attorney, may file a proof of claim or an application for payment of unclaimed funds due such entity without representation of counsel. Otherwise, such entities shall appear only through counsel.
- (4) **No Entry of Appearance Required** An attorney need not obtain leave of Court to appear and practice in a particular case merely to file a request for service or a

proof of claim on behalf of a client.

(e) Appearances:

- (1) Filing Constitutes Appearance.** The filing of any pleading or other paper shall constitute an appearance in the case or proceeding in which the pleading or paper is filed by the attorney who signs it, unless the pleading or paper states otherwise.
- (2) Request for Service of Papers.** If an attorney wishes to receive copies of filed papers, the attorney must file a formal entry of appearance containing the attorney's name, bar identification number, firm name, mailing address and telephone and facsimile number of the person entering the appearance, specifically requesting to be so served, and a copy of such request must be served on the debtor's attorney, or debtor if pro se, the case trustee, and the local office of the United States trustee; otherwise, the attorney will receive only those papers that deal directly with said attorney's client, as required by the Federal Rules of Bankruptcy Procedure. With respect to notices and copies of orders served by the Court, the attorney will receive only those notices and orders that deal directly with said attorney's client as required by the Federal Rules of Bankruptcy Procedure, these LBRs or as otherwise ordered by the Court.
- (3) Appearance List.** The Clerk shall maintain a general appearance list in each case, which shall be available to any attorney upon request. The Clerk shall also maintain such list on the Court's electronic records system (PACER), to the extent technically possible.
- (4) Withdrawal of Attorney.**

 - (A) Leave of Court Not Required.** An attorney representing a party may withdraw from a case or proceeding without leave of court by filing a Notice of Withdrawal with the Court, provided

that:

- (i) such notice is accompanied by a Notice of Appearance of other counsel;
- (ii) there are no motions pending before the Court; and
- (iii) no trial or hearing date has been scheduled.

(B) Service of Notice of Withdrawal. The Notice of Withdrawal shall be served on:

- (i) the client;
- (ii) the local office of the United States trustee;
- (iii) any trustee serving in the case;
- (iv) in cases under chapter 11, any committee that has been appointed and is serving in the case under 11 U.S.C. § 1102, or upon counsel or the authorized agent for such committee;
- (v) in adversary proceedings, all parties to the proceeding; and
- (vi) all other persons or parties as the Court may require.

(C) Leave of Court Required. If any of the requirements contained in subparagraph (A) is lacking, a written motion for leave to withdraw, with service on the parties listed in subparagraph (B) is required. Until an order granting withdrawal is entered, counsel remains the attorney of record in the case or proceeding.